

## HB 555 Questions & Answers

HOUSE & LABOR  
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HB 555

### Q: Will HB 555 wipe out available third-party liability limits?

A: No. With respect to third-party liability coverage, HB 555 only applies where such liability coverage has been paid to a health care provider. See HB 555 §§ 1(1)(a), 2(1)(a) and 3(1)(a). If an injured person informs her medical provider not to bill the auto carrier, the third-party liability limits would be available and preserved for other expenses such as lost wages, pain and suffering etc. In that situation, the injured person must simply not make a *Ridley* demand. Also, the injured person may not be entitled to receive the deductible, coinsurance, or copayment credit under sections 1(7)(a), 2(7)(a) or 2(7)(a) of the bill. For medical payment coverage, however, the answer would be "yes." See HB 555 §§ 1(1)(b), 2(1)(b) and 3(1)(c). If there is medical payment coverage available, HB 555 would apply. It is important to note, however, HB 555 does not prevent or preclude the medical provider from exercising its legal rights under § 71-3-1114, MCA.

### Q: What is the problem?

A: The current practice in Montana following the *Morrison* decision is for injured persons to receive double payments for the same medical expense. For example, a medical expense is paid by the at-fault automobile insurer and a duplicate payment, for the same expense, is sought from the health insurer.

### Q: What is an example of the problem?

A: If a State of Montana Employee Health Benefit Plan member is injured in an automobile accident and the responsible party's auto insurer pays for the resulting medical expenses to the various health care providers then, in that event, the *Morrison* Court and the opponents of HB 555 believe that the respective health care providers should pay the member the sums that the health care providers received from the auto insurer. Then they believe the member should submit claims to the State's Employee Health Benefit Plan so the State Plan pays the associated medical expenses for a second time.

### Q: How does HB 555 address the problem?

A: With respect to health insurance, if an injured person's medical expenses are paid by a responsible auto or premise liability insurer then, HB 555 prevents the double payment of medical expenses by preventing the injured person's health insurance from paying the same medical expenses a second time.

### Q: What does HB 555 do?

A: HB 555 prevents this double recovery of payments. It also provides that if the health care provider receives two payments: one from the auto carrier and another from the medical benefit insurer or plan, the medical benefit insurer is entitled to receive a credit or refund from the health care provider. The refund or credit does not go to the member or insured; it goes to the plan or insurer to help mitigate the rising health care insurance premiums.

### Q: Does HB 555 violate Article II, § 16 of the Montana Constitution?

A: No. There is no constitutional right for an insured to have his medical bills paid twice. HB 555 only precludes the application of the Montana Supreme Court's "made whole" decisions as well as the subrogation provisions found in MCA §§ 2-18-901, 2-18-902, 33-22-1601, 33-22-1602, 33-30-1101, and 33-30-1102. HB 555 does not repeal these statutory subrogation provisions; it merely remedies the abuse those statutory provisions and the judicially created "made whole" doctrine have caused with respect to the double payment of medical expenses.

## **Who Supports HB 555?**

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**The following list of employers, businesses, and governmental entities all support enactment of HB 555:**

- (1) Montana Chamber of Commerce
- (2) MMIA (Montana Municipal Interlocal Authority)
- (3) Montana Department of Administration
- (4) MACo (Montana Association of Counties)
- (5) MUST (Montana Unified School Trust)
- (6) Montana University System
- (7) Montana Community Colleges
- (8) Montana Comprehensive Health Association
- (9) Montana Bankers Trust
- (10) Montana Retail Association
- (11) Montana Hospital Association
- (12) Montana Medical Association
- (13) New West Health Services
- (14) Blue Cross Blue Shield of Montana
- (15) Allegiance
- (16) St. Peter's Hospital
- (17) Bozeman Deaconess
- (18) Benefis Health System
- (19) St. Patrick Hospital
- (20) St. Vincent Healthcare
- (21) St. James Healthcare
- (22) Holy Rosary Healthcare
- (23) St. Joseph Hospital
- (24) Allstate
- (25) Property Casualty Insurers
- (26) American Insurance Association
- (27) Farmers Insurance Group